

Service Date: July 20, 1978

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER of the Application )  
of the TOWN OF FAIRFIELD for Au- ) DOCKET NO. 6587  
thority to Establish Increased )  
Rates For Water Service. ) ORDER NO. 4435

APPEARANCES

For the Applicant

Gerald A. Bollinger, Attorney at Law,  
Choteau, MT 59422

Gayle Wood, Mayor, Town of Fairfield,  
Fairfield, MT 59436

Dave Heckler, Consulting Engineer to the Town of Fairfield,  
1200 Twenty-Fifth Street South  
Great Falls, MT 59405

Robert Loss, Water Superintendent, Town of Fairfield,  
Fairfield, MT 59436

For the Protestants

Geoffrey L. Brazier, Montana Consumer Counsel  
34 West Sixth Avenue Helena, MT 59601

Gilbert Johnson, Box 362, Fairfield, MT 59436

Leo Messer, Box 101, Fairfield, MT 59436

For the Commission

Dennis Crawford, Deputy Administrator, Utility Division

Before

P. J. Gilfeather, Commissioner

APPLICATION AND PROCEEDINGS

On October 17, 1977 the Town Council of the Town of

Fairfield, Montana, passed by affirmative vote of the entire Town Council Resolution No. 68, authorizing the Mayor to apply for a water rate increase.

On January 18, 1973, the Town of Fairfield (hereinafter designated Applicant) filed a petition with the Commission to increase rates for water service. That Applicant's contended justification for such request is to finance a Water Improvement Project. On February 8, 1978 a Notice of Proposed Public Hearing was issued as a legal ad in the Fairfield Times and the Choteau Acantha. Protests and/or requests were to be filed by March 9, 1978. Protests and requests for a public hearing were received.

To enable interested parties to express their views in the matter, and in response to the filed protests and requests for hearing, the Commission set the matter for public hearing on Friday, April 14, 1978 in Fairfield, Montana.

A notice of public hearing was issued on March 22, 1978 and published as a legal notice in the March 30, 1978 edition of The Fairfield Times and the Choteau Acantha. In addition to the legal notices numerous articles appeared in the local newspaper relating to the water improvement project.

Commissioner P. J. Gilfeather, hearing examiner, held a public hearing at the Community Hall, Fairfield, Montana, at 10:30 a.m. on Friday, April 14, 1978.

#### EVIDENCE AND COMMENTS

In support of its application, Applicant introduced Exhibit 1, Report For Fairfield Water Improvements, Fairfield, Montana, October, 1977. The report summarizes the

recommendations and proposals for the facilities required to improve the flow conditions in the Town of Fairfield, Montana. The purported purpose of the Fairfield Water Improvement Project is to construct supply, distribution and storage facilities to improve domestic flow conditions and fire flow requirements.

The report states that presently four (4) existing shallow wells of approximately thirty (30) feet deep, supply the water for the Town of Fairfield. The capacity of these wells varies throughout the year, depending on the amount of irrigation that takes place in the surrounding area. As the irrigation activity increases throughout the area, the wells receive more inflow and the pump capacity increases. During the months when irrigation practices cease, the water table lowers in the wells. Historically the town has imposed sprinkling restrictions because of the low water table.

The report alleges that the north end of town is one area that experiences low water pressure problems. The report states that the area where the school is located is in need of additional fire protection in regard to available water flows.

The report further alleges that the water facility is designed for approximately twenty (20) years in the future so all design calculations were based on this population growth from today's 680 to 800 for the year 2000.

The proposed plan is to drill a test well approximately 250 to 300 feet deep, analyze the data obtained as to the finished well and to determine location of a second deep or shallow well. Depending on capacity obtained from the test wells, the existing wells may be utilized as a backup supply.

The report also alleges that the present storage facility is not adequate and proposes a 200,000 gallon, ground level tank to be located adjacent to the existing storage tank to serve the domestic and fire flow requirements.

Distribution system recommendations include an eight inch (8") main to serve the north end of town, to loop the south part of town and install a line behind the school for fire protection, as outlined on the map included in Exhibit #1.

The estimated cost of the Water Improvement Project is approximately \$464,230. Applicant has made interim financing arrangements through the local bank and D.A. Davidson. Applicant has applied to the Farmers Home Administration for a loan in the amount of \$464,300 to finance the Water Improvement Project. Mr. Dave Heckler of the engineering firm of Thomas, Dean and Hoskins, Inc. the project engineers, testified in support of the engineering report.

Additional revenue from the proposed rate increase is estimated to be approximately \$33,300.00 annually. The annual debt service for the Water Improvement Project is approximately \$31,190.00 annually. Any balance derived from the increase would be used to defray increased costs of operation. Farmers Home Administration requires that a revenue bond reserve account be established. This reserve account would be increased by \$235 each month until there is \$28,140 in the account. After the bonds have been paid off this reserve amount would be available to the Applicant for improvements and replacements.

Applicant has requested a flat monthly rate of \$10.95 for residents residing within the town and to eliminate the present irrigation rate of 10¢ per front foot per season.

Applicant's testimony indicated that there is a total of 279 residential users and of such number 255 subscribers were billed a total of \$1,678.75 per year, under present rates, for irrigation. That 2 1\2 lots per resident is average and 14 residents do not irrigate. Testimony also indicated some water consumers owned more than 2 1\2 lots.

Testimony by the Applicant was that the water department does not levy a charge to the Town for any of the water used by it, such as in the Town offices and other buildings, parks or swimming pool.

Two local protestants testified at the hearing. One witness was opposed to the location of the well site and was concerned about the effect that the rate increase would have on the people with a fixed income. The other protestant did not disagree about the need for additional water supply but disagreed with the amount of the rate increase. His testimony indicated he felt the project could be done for less than the proposed \$464,000 ,however, neither of these witnesses had any cost estimates on improvements they would subscribe to, nor had they theretofore submitted any optional plans to the Town Water Department.

The Commission, in reaching its decision herein, takes into consideration the evidence that the proposed rate increase is needed to finance an improvement project, that there is a need for an additional and more reliable water supply, that improvements are required in the distribution system to improve the domestic flow and fire flow requirements and to accomplish this an additional water storage facility is required. That the only means the Applicant has to repay such an obligation is through the rates it charges for water service.

The Commission also appreciates the fact that the protestants would question a 314% increase as being too large and difficult to cope with, but we are unable to find any solution to the Town's problems by or through the protestants testimony. We do not find from the protestants evidence where or why a different location for the deep test well would alleviate any of the cost, nor to what extent, if any, the tearing out of the present wells and extending their depth or drainage field would save money or in fact improve the quantity or quality of the water supply. Further the Commission is somewhat concerned with the use of shallow wells which are fed by seepage from irrigation from a contamination standpoint, and would feel better about the project if it depended entirely on deep wells.

The Commission concurs with the Applicant's proposed total revenue requirement, but has concern with two aspects of the proposed rates. Our first concern is that the flat residential rate includes the irrigation charge, which does not distinguish between users and non-users of irrigating water nor the extent of the area being irrigated. The evidence shows that some 14 persons do not do any irrigating and that the rate is the same regardless of whether you have one lot, the average of 2 1\2 lots, or 3 or more lots. It seems elementary to us, that rate payers should not be charged for a service they do not use, or charged for more than they use, unless such cost is justified by cost of service for a minimum amount, otherwise such a charge is clearly discriminatory.

Secondly we do not approve of the Fairfield Water Department furnishing free water to the Town of Fairfield office buildings, parks, swimming pool or any other use the Town may

have. This Commission in the matter of the City of Bozeman, Docket No. 4493 Order No. 2641, dated April 1, 1957, reported in Volume 18 PUR 3d 180, specifically stated at page 183 as follows:

"The municipal water department should be operated entirely separate from other functions of city government, any payments from water funds made to city officials should be upon the basis of time spent or work performed for the water department. There should be no diversion of water department funds, and all water or water service furnished to the city should be paid for out of the city general fund. Consumers who pay rates high enough to allow the utility to furnish free service to other consumers (such as the City) are being discriminated against, and if the water department diverts revenue for other city functions the rates which permit this are unreasonably high and unjust.

The Commission has maintained this position through out the years." (Cites Re City of Helena (1949) 81 PUR (NS) 469,477. The case further cites a Billings case reported in 214 P.608, as follows:

"'when the town receives its water free . . . . . the water consumers foot the bill. This procedure constitutes discrimination and should not, under any circumstances, be tolerated!" (Emphasis ours).

The cases above cited hold that the city fire departments should pay a reasonable charge for the water used by that department. We feel that in the instant case it would be extremely difficult to set a rate on a straight volumetric basis as the fire department is a voluntary organization. It is questionable as to whether its records would be adequate

to make any precise findings or even close estimates. The Commission feels that the Town fire department and the Town water department should negotiate a reasonable monthly or yearly charge to be made by the water department of the fire department for service to the Town hydrants, and that the funds to sustain such charge should be derived from the revenue of the fire department under the provisions of Section 11-1909.

The expenses appear to be reasonable, and no inflation factor was applied.

From the evidence and for the reasons above set forth, the Commission makes the following Finding of Fact, Conclusions of Law and Order:

#### FINDINGS OF FACT

1. The Applicant is a municipal water utility operating within the State of Montana, providing water service in and around Fairfield, Montana.
2. That the present water supply is insufficient and inadequate to meet domestic and fire flow requirements.
3. The proposed improvements as outlined in Applicant's Exhibit No. 1 appear to be reasonable.
4. The estimated cost of the proposed improvements is \$464,230.00.
5. The estimated annual debt service, including revenue bond reserve, is \$31,190.00.



6. Annual revenues are expected to increase by \$33,336.80 with approval of the proposed rates.

7. Applicant has applied to the Farmers Home Administration for a loan in the amount of \$464,300.00 to finance the water improvement project.

8. Applicant has made interim financing arrangements through the local bank and D. A. Davidson.

9. Applicant alleges it has currently registered warrants relating to the improvement project.

10. Applicant anticipates completion of the water improvement project by the end of this summer and a loan closing in October, 1978.

11. That the Town of Fairfield should be required to pay a reasonable charge to the water department for water service for fire hydrants and all other uses by the Town.

#### CONCLUSIONS OF LAW

1. The Applicant's water rates are subject to the jurisdiction of the Commission under Section 70-101, RCM 1947 et seq.

2. The increased rates approved herein are necessary to the continued operation of the Fairfield Water Department. The rate levels approved herein are reasonable and just.

3. A rate structure which authorizes the furnishing of free water to the Town or any of its activities or anyone is discriminatory, unjust and unreasonable.

ORDER

IT IS ORDERED that the Applicant be allowed to impose water rates that would generate additional revenue of approximately \$33,300.00 annually.

IT IS FURTHER ORDERED that Applicant submit a monthly, per lot, irrigation rate for five summer months.

IT IS FURTHER ORDERED that Applicant assess a monthly or annual charge to the Town for its water use, such as for water used in the Town buildings, park and swimming pool or any other Town use. The Town buildings will be charged the residential rate, the parks charged the residential lot irrigation rate and the swimming pool on an estimated usage, then apply the last block of the metered rate to the estimated use. Establish a fire hydrant service charge based on the negotiations between the Town and the water department.

IT IS FURTHER ORDERED that Applicant's monthly residential rates will be reduced by the amount generated by the irrigation rate and the amount charged the Town and rate schedules submitted accordingly.

IT IS FURTHER ORDERED that a copy of the Bond Sale Agreement will be filed with the Commission.

IT IS FURTHER ORDERED that any interest earned on the reserve account will go into the water fund.

IT IS FURTHER ORDERED that the effective date for the increased rates will be for water service rendered thirty

(30) days after the sale of bonds.

DONE IN OPEN SESSION in Helena, Montana on July 17, 1978  
by a 5 - 0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION:

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Gordon E. Bollinger, Chairman

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P.J. Gilfeather, Commissioner

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Thomas J. Schneider, Commissioner

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James R. Shea, Commissioner

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George Turman, Commissioner

ATTEST:

Madeline L. Cottrill  
Secretary  
(SEAL)

NOTICE: You are entitled to judicial review of the final decision in this matter. If no Motion For Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion For Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage of ten (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Section 82-4216, RCM 1947; and Commission Rules of Practice and Procedure, esp. 38-2.2(64)-P2750, ARM.